

This safety zone will encompass the waters of Lake Michigan within Milwaukee Harbor including the Harbor Island Lagoon enclosed by a line connecting the following points: Beginning at 43°02'00" N., 087°53'53" W.; then south to 43°01'44" N., 087°53'53" W.; then east to 43°01'44" N., 087°53'25" W.; then north to 43°02'00" N., 087°53'25" W.; then west to the point of origin (NAD 83). As specified in 33 CFR 165.935, all vessels must obtain permission from the Captain of the Port Lake Michigan or a designated representative to enter, move within, or exit the safety zone when it is enforced. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This notice of enforcement is issued under authority of 33 CFR 165.935, Safety Zone; Milwaukee Harbor, Milwaukee, Wisconsin, and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or a representative may be contacted via Channel 16, VHF-FM.

Dated: May 23, 2016.

**A.B. Cocanour,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. 2016-13339 Filed 6-3-16; 8:45 am]

**BILLING CODE 9110-04-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2016-0318]

RIN 1625-AA00

**Safety Zone; Upper New York Bay, Liberty Island, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 100-yard radius of each participating swimmer during the Lady Liberty Sharkfest Swim. The safety zone is needed to protect the maritime public and event participants from the hazards associated with swim events taking place in a high vessel traffic area. Entry of vessels or persons

into this zone is prohibited unless specifically authorized by the Captain of the Port New York.

**DATES:** This rule is effective from 7:00 a.m. until 9:30 a.m. on July 16, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0318 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MST1 R.J. Sampert, Waterways Management Division, U.S. Coast Guard; telephone 718-354-4197, email [ronald.j.sampert@uscg.mil](mailto:ronald.j.sampert@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because it would be impractical and contrary to the public interest. The event sponsor was late in submitting the marine event application. This late submission did not give the Coast Guard enough time to publish an NPRM and receive comments, making that impracticable and contrary to the public interest in immediate action to ensure the safety of the event participants, patrol vessels, spectator craft and other vessels transiting the event area.

For the same reasons, we are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port New York (COTP)

has determined that potential hazards associated with swim events occurring in high traffic areas of the Upper New York Harbor on July 16, 2016 will be a safety concern for anyone within a 100-yard radius of swimmers. This rule is needed to protect maritime public and event participants from the hazards associated with the swim event until the conclusion of the event.

**IV. Discussion of the Rule**

This rule establishes a safety zone from at 7:00 a.m. until 9:30 a.m. on July 16, 2016. The safety zone will cover all navigable waters within 100 yards of participating swimmers for the Lady Liberty Sharkfest Swim. The duration of the zone is intended to protect maritime public and event participants from the hazards associated with swim events taking place in a high vessel traffic area. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

**V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive order related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

*A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the Upper New York Harbor in vicinity of Ellis and Liberty Islands for 2.5 hours and during a time of day when vessel traffic is normally low. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting approximately 2.5 hours that will prohibit entry within 100 yards of participating swimmers for the Lady Liberty Sharkfest Swim. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0318 to read as follows:

#### § 165.T01–0318 Safety Zone; Upper New York Harbor, New York, NY.

(a) *Location.* The following area is a safety zone: All waters of the Upper New York Harbor, from surface to bottom, within a 100 yard radius of each participating swimmer during the Lady Liberty Sharkfest Swim.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP’s designated representative.

(2) To seek permission to enter, contact the COTP or the COTP’s representative via VHF channel 16 or by phone at (718) 354–4353 (Sector New York Command Center). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative.

(d) *Enforcement period.* This section will be enforced from 7:00 a.m. until 9:30 a.m. on July 16, 2016.

Dated: May 15, 2016.

**M.H. Day,**

*Captain, U.S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 2016-13341 Filed 6-3-16; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2015-1079]

RIN 1625-AA00

#### Safety Zones; Sector Upper Mississippi River Annual and Recurring Safety Zones Update

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule with requests for comments.

**SUMMARY:** The Coast Guard is amending and updating its annual and recurring safety zones that take place in the Coast Guard Sector Upper Mississippi River area of responsibility (AOR). This regulation informs the public of regularly scheduled events that require additional safety measures through establishing a safety zone. Through this interim rule the current list of recurring safety zones is updated with revisions, additional events, and removal of events that no longer take place; and we are requesting comments on additional changes necessary to update the permanent list of recurring safety zones in Sector Upper Mississippi River's AOR. When these safety zones are enforced, vessel traffic is restricted from specified areas. Additionally, this one rulemaking project serves to provide notice of the known recurring safety zones throughout the year.

**DATES:** This rule is effective June 11, 2016. Comments and related material must be received by the Coast Guard on or before June 27, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2015-1079 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LCDR Sean Peterson, Chief of Prevention, U.S. Coast Guard; telephone 314-269-2332, email [Sean.M.Peterson@uscg.mil](mailto:Sean.M.Peterson@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

AOR Area of Responsibility  
CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

### II. Background Information and Regulatory History

On April 8, 2016, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Sector Upper Mississippi River Annual and Recurring Safety Zones Update (81 FR 20592). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 9, 2016, we received information from event sponsors providing updated locations for 2 of the events listed in the NPRM. Therefore, we are requesting comments through this interim rule related to these two location changes before issuing a final rule. These changes are discussed further below.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Though we are not providing a full 30 day notice period, the Coast Guard did provide notice and opportunity to comment through the NPRM process and is now providing five days notice before the first updated recurring safety zone enforcement is required the weekend of June 11-12. It is impracticable to provide a full 30-days notice because this rule must be effective June 11, 2016.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) Upper Mississippi River has determined that potential hazards associated with the recurring events will cause safety concerns. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zones, before, during, and after the scheduled events.

### IV. Discussion of Comments, Changes, and the Interim Rule

As noted above, during the comment period for our NPRM that published April 8, 2016, we received information from event sponsors updating the location for two events. This information lead to the need to propose changes to the location details for two

of the recurring safety zones listed in the NPRM. Therefore, there are two new proposed changes to the regulatory text of this rule that are different from the proposed rule in the NPRM. The first corrects the location of event number 14; Prairie du Chien Area Chamber Fireworks, taking place annually on one day during the second weekend of July. The location listed in the proposed rule was Upper Mississippi River mile marker 633.8 to 634.2; the correct location for this event is Upper Mississippi River mile marker 635.2 to 635.7. The second corrects the location of event number 31; Hermann 4th of July event taking place one day over the 4th of July weekend. The location listed in the proposed rule was Missouri River mile marker 99.0 to 98.0; the correct location for this event is Missouri River mile marker 97.0 to 98.0.

All other changes, removals, and additions proposed under the NPRM remain the same as listed in the proposed rule. This interim rule establishes recurring safety zones to restrict vessel transit into and through specified areas to protect spectators, mariners, and other persons and property from potential hazards presented during certain events taking place in Sector Upper Mississippi River's AOR. This interim rule amends, updates, and replaces Table 2 in 33 CFR 165.801, and requests comments on two additional changes as discussed above before issuing a final rule. No vessel or person will be permitted to enter the safety zones without first obtaining permission from the COTP or a designated representative.

### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.